

Economic Impact Statement

LSA Document #13-497

[IC 4-22-2.1-5](#) Statement Concerning Rules Affecting Small Businesses**Summary and Background of the Proposed Rule**

When a qualified provider determines an individual presumptively eligible for Medicaid, the person may immediately receive Medicaid coverage for a temporary period of time. For purposes of this analysis, the Office of Medicaid Policy and Planning (OMPP) will refer to this process as hospital presumptive eligibility (HPE). In order to receive full Medicaid coverage, such individuals must submit an Indiana Application for Health Coverage to the Indiana Family and Social Services Administration (FSSA) for review and approval.

Recent changes to federal law required states to accept applications for presumptive Medicaid eligibility from hospitals and other qualified providers and to cover the services provided to individuals who appeared to be Medicaid eligible. See 42 CFR 1110. Federal law leaves the design of certain elements of the HPE program, such as disqualifying participating hospitals or setting performance standards, up to the individual states. See 42 CFR 1110(d).

Because the state must accept a qualified provider's presumptive eligibility determination and cover the individual during that time period, FSSA must ensure that qualified providers are making proper assessments and presumptive eligibility determinations. FSSA does so under the proposed rule by establishing performance standards and sanctions for qualified providers who elect to participate. FSSA expects to implement the proposed rule 30 days after filing with the publisher.

Impact on Small Business

The following section provides responses to the questions outlined in [IC 4-22-2.1-5](#):

1. An estimate of the number of small businesses, classified by industry sector, that will be subject to the proposed rule.

[IC 5-28-2-6](#) defines a small business as a business entity that satisfies the following requirements:

- (1) On at least fifty percent (50%) of the working days of the business entity occurring during the preceding calendar year, the business entity employed not more than one hundred fifty (150) employees.
- (2) The majority of the employees of the business entity work in Indiana.

There are a total of six acute care hospitals that could participate in the HPE program that fit the definition of a small business as set forth in [IC 5-28-2-6](#).

2. An estimate of the average annual reporting, record keeping, and other administrative costs that small businesses will incur to comply with the proposed rule.

Enrolled Medicaid or HIP providers are already keeping records relating to the care and services they provide to recipients. The proposed rule does not change such practices. FSSA anticipates minimal costs for qualified providers to educate their personnel on the HPE program. FSSA has already published a number of materials explaining the program and provided training to eligible providers. Although FSSA imposes a number of phased-in performance metrics with the proposed rule, it does not expect providers to provide the reporting data. Rather, FSSA will compare the number of approved/denied applications against the presumptive eligibility determinations. FSSA does not expect providers to hire additional staff, purchase new equipment, or expand existing facilities to comply with the proposed rule.

3. An estimate of the total annual economic impact that compliance will have on small businesses subject to the rule.

FSSA anticipates that compliance with the proposed rule should have a minimal economic impact on small businesses. For the HPE program, FSSA must provide reimbursement for covered services, even if the provider made an incorrect eligibility determination. As such, small businesses subject to the proposed rule will not be subject to later recoupment actions. Further, the sanctions set forth in the proposed rule are nonmonetary and only limit a provider's ability to participate in the HPE program and submit presumptive eligibility determinations. They do not impact a qualified provider's ability to provide general Medicaid or HIP services and receive reimbursement.

4. A statement justifying any requirement or cost that is imposed by the rule and not expressly required by law. The statement must reference any data, studies, or analyses relied upon by the agency in determining imposition of the requirement or cost is necessary.

As noted above, federal law requires states to implement a HPE program but leaves the design of such programs to the states. Federal law requires states to provide reimbursement to a provider for services provided during the presumptive eligibility regardless of whether such individual is later determined ineligible. Because FSSA must accept a participating entity's presumptive eligibility determination and make payment available, the agency wants to ensure that the qualified provider makes appropriate determinations. The proposed rule does so by establishing performance standards and sanctions for

qualified providers who elect to participate. FSSA needs administrative rules in order to enforce these standards. Accordingly, the proposed rule is justified in order to create performance standards and sanctions for qualified providers.

5. Any regulatory flexibility analysis that considers any less intrusive or less costly alternative methods of achieving the same purpose.

Other factors considered:

A. Establishment of less stringent compliance or reporting requirements for small businesses.

FSSA will hold all participating providers to the same performance standards. However, the proposed rule does not require any provider to report to or provide data to the FSSA. FSSA will pull and compare its data for purposes of monitoring and compliance. Additionally, all participation for small businesses is voluntary.

B. Establishment of less stringent schedules or deadlines for compliance or reporting requirements for small businesses.

FSSA will hold all participating providers to the same performance standards. However, the proposed rule does not require any provider to report to or provide data to the FSSA. FSSA will pull and compare its data for purposes of monitoring and compliance. Additionally, all participation for small businesses is voluntary.

C. Consolidation or simplification of compliance or reporting requirements for small businesses.

FSSA will hold all participating providers to the same performance standards. However, the proposed rule does not require any provider to report to or provide data to the FSSA. FSSA will pull and compare its data for purposes of monitoring and compliance. Additionally, all participation for small businesses is voluntary.

D. Establishment of performance standards for small businesses instead of design or operational standards imposed on other regulated entities by the rule.

FSSA will hold all participating providers to the same performance standards. However, the proposed rule does not require any provider to report to or provide data to the FSSA. FSSA will pull and compare its data for purposes of monitoring and compliance. Additionally, all participation for small businesses is voluntary.

E. Exemption of small businesses from part or all of the requirements or costs imposed by the rule.

FSSA will hold all participating providers to the same performance standards. However, the proposed rule does not require any provider to report to or provide data to the FSSA. FSSA will pull and compare its data for purposes of monitoring and compliance. Additionally, all participation for small businesses is voluntary. Regardless, the proposed rule imposes no additional requirements or cost on small businesses.

If there are any programmatic or fiscal questions, please contact Natalie Angel at (317) 234-5547 or at natalie.angel@fssa.in.gov. Questions regarding any other aspect of the proposed changes should also be addressed to Kim Crawford at (317) 232-1244 or at kim.crawford@fssa.in.gov.

Posted: 08/05/2015 by Legislative Services Agency

An [html](#) version of this document.